

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF SOCIAL SERVICES AND HOUSING

SUBTITLE 2

CORRECTIONS DIVISION

CHAPTER 205

FACILITY SECURITY

REPEALED

SS17-205-1 to 17-205-21 REPEALED. [R **APR 15 2000**]

TITLE 17

DEPARTMENT OF SOCIAL SERVICES AND HOUSING

SUBTITLE 2 CORRECTIONS DIVISION

CHAPTER 205

FACILITY SECURITY

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SUBCHAPTER 1

INFORMATION OR PUBLICITY ON
INMATES, WARDS, OR PAROLEES

\$17-205-1 Confidential. Information about inmates, other than the fact and place of incarceration and current offense and sentence, shall be confidential and shall be used only in administering the correctional program. [Eff. OCT 6 1983]
(Auth: HRS §353-3) (Imp: HRS §353-3)

\$17-205-2 Approval. Publicity about inmates, wards, or parolees or use of the facilities for publicity purposes may be permitted with the approval of the corrections division administrator. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

\$17-205-3 Other jurisdiction. Any inmate or ward placed with the corrections division by a jurisdiction other than Hawaii shall not be interviewed or photographed by the new or other media without the prior written approval of the jurisdiction agency.
[Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

SUBCHAPTER 2

INMATE AND WARD FILES

S17-205-4 Confidentiality. The active file on an inmate or ward is confidential and the property

of the department of social services and housing.
[Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp:
HRS §353-3)

§17-205-5 Surrender. At no time shall the file of any inmate or ward be surrendered to any person or agency without:

- (1) Approval of the facility administrator, corrections division administrator, or the attorney general;
- (2) An order from a court of competent jurisdiction;
- (3) Request of the ombudsman. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

SUBCHAPTER 3

SEARCHES

§17-205-6 Definition. The supreme court has held that all persons have a right to be free of unreasonable searches and seizures. An unreasonable search is one that invades one's reasonable expectations of privacy. Where one does not have a reasonable expectation, a search is lawful. For the most part, searches in penal institutions do not invade one's reasonable expectations of privacy.
[Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-7 Facility entrance. All facilities shall post a sign at a conspicuous place at each main entrance stating that all visitors and employees, including anything carried in, are subject to search, including a strip search, at any time while in the facility. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-8 Consent form. All employees and visitors may be required to sign, as a condition to

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entrance, a consent to search form. Failure to consent to search by any person may cause that person to be barred from the facility. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-9 Cavity searches. Body cavity searches of visitors, inmates, wards, and employees are permitted as long as it is done reasonably and prudently. No such searches shall be conducted for reasons other than the recovery or discovery of contraband, although probable cause is not required to justify the search. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-10 Facility searches. Random, unannounced and warrantless searches of cells and dormitories or other areas may be conducted at any time, as long as the purpose is not to harass or humiliate an inmate or ward, but rather to recover or discover contraband or improper activity. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-11 Visits. All inmates and wards may be at least pat-down searched before or after visits in accordance with the procedures of the facility administrator. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

SUBCHAPTER 4

SEIZURE OF EVIDENCE

§17-205-12 Procedures. A proper chain of evidence shall be maintained to preserve seized contraband for criminal trial. The following procedures shall be followed:

- (1) As few staff personnel as possible shall handle evidence; preferably, the person discovering the evidence shall maintain custody until turned over to the police;

- (2) As soon as possible after discovery, the evidence shall be turned over to the police or placed in a locker; the person discovering the evidence shall retain the only key to the locker until the evidence is turned over to the police; the locker shall not be used for any other purpose while holding the evidence;
- (3) The person discovering the evidence shall personally deliver the evidence to the police;
- (4) The facility shall retain a statement describing the evidence, the time and place discovered, and the name of the staff person discovering the evidence.
[Eff. OCT 6 1983] (Auth: HRS §353-3)
(Imp: HRS §353-3)

§17-205-13 Deviations from prescribed procedure. Any deviation from the procedures set forth in section 17-205-20 may result in the evidence being held inadmissible or require that testimony at trial of all staff personnel who had custody of the evidence. [Eff. OCT 6 1983] (Auth: HRS §353-3)
(Imp: HRS §353-3)

SUBCHAPTER 5

INCOMING PUBLICATION

§17-205-14 Clearance. The facility administrator shall be responsible for making decisions regarding publications. A publication (magazine, books, and newspaper) may be rejected if based on a showing that it will be detrimental to the security, discipline, or good order of the institution. Rejection shall not be based solely on the publication's religious, philosophical, political, social, or sexual views. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-15 Unacceptable publications. Where a publication is found to be unacceptable, the inmate or

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ward shall be advised in writing of the decision and the reasons. The grievance procedure may be used to complain of the decision. The unacceptable publication shall ordinarily be returned to the publisher. A copy of the rejection letter shall be sent to the publisher, with a request to discontinue the mailing if it is a subscription which is found unacceptable. An inmate or ward may request a further review, after a lapse of at least six months, of a subscription publication. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-16 Limitations. Limits may be set locally, for housekeeping and security reasons, on the number of publications an inmate or ward may receive or retain. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

SUBCHAPTER 6

USE OF FORCE

§17-205-17 General guidelines. The use of force is limited to that amount which is reasonably necessary under the circumstances. Any use of force more than that which is reasonably necessary to preserve the security and order of the facility is prohibited. All personnel shall use good judgment in each circumstance. Corporal punishment is prohibited. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-18 Firearms. The greatest caution and conservative judgment shall attend the use of firearms. Firearms shall be used only when absolutely necessary to prevent escapes, or where there is a clear and present danger to life or limb. When possible, before firing at an inmate, a warning must first be communicated, by such means as verbal command, whistle, or firing a warning shot in the air when it will not endanger innocent persons. Where it is necessary to shoot at an inmate, the intent shall

be to attempt to disable, if possible, and not to kill. Once the danger necessitating the shooting ends, firing shall cease. [Eff. OCT 6 1983]
(Auth: HRS §353-3) (Imp: HRS §353-3)

§17-205-19 Mace and chemical agents. (a) The reasonable use of mace and chemical agent control devices is permitted in self defense, defense of third persons, in breaking up fights between inmates or wards, and in protecting state property when milder measures fail.

(b) Due concern shall be given to the possibility that innocent bystanders may be the victims of the use of chemical agents. However, under emergent circumstances, the need to use chemical agents may outweigh the protection of bystanders.

(c) The use of chemical agents as a punitive measure, rather than a control device, is strictly prohibited. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

SUBCHAPTER 7

CONFISCATION OF PERSONAL PROPERTY

§17-205-20 Inventory and disposition of personal property. In all cases, when an inmate's or ward's personal property is confiscated, such as during a shakedown, an inventory shall be made and proper safeguards established to later identify the property taken. If the property is disposed of, the inmate or ward shall be notified of the disposition. If legal materials are confiscated, the materials shall be returned as soon as practicable to the inmate or ward. Legal materials shall not be otherwise disposed of. [Eff. OCT 6 1983] (Auth: HRS §353-3) (Imp: HRS §353-3)

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SUBCHAPTER 8

ASSAULTS ON AND INTIMIDATION OF
CORRECTIONAL WORKERS

§17-205-21 Violations. The use of force or threats directed to a correctional worker or the worker's family to influence such worker's conduct, decision, action, or abstention from action, or for no reason at all is a serious violation of law and of the rules. All such violations must be disciplined by the facility and shall be forwarded as a criminal complaint to the proper authorities. To prevent the occurrence of these violations, staff personnel shall make every effort to avoid provocation of inmates or wards. [Eff. OCT 6 1983. 1 (Auth: HRS §353-3) (Imp: HRS §353-3)]